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File No. O. Prov. Fund 52.

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Legal Department-
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Subject:— Opinions under the Provident Fund Act, 1925.

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It appears Shri J.Crone, Additional District Superintendent of Police, Poona and Shrimati Crone have by a registered deed dated the 30th March 1950, adopted a female child Netta Irene Lynette (then 19years old) as their own daughter with the consent of her natural father and has undertaken (1) to give the adopted child good education suitable to their social life and (2) to maintain the adopted child at their own expense and provide her with the necessitizes of life according to her social status. Shri J. Crone who is a subscriber to the Bombay General Provident Fund has by his revised nomination dated the 14th May 1951 nominated his wife Ernesta Naomi Crone to receive the amount of the fund to his credit in the event of his death and in column 5 of the nomination has specified the said Irene Lynette, his adopted daughter, as the person to whom the right of the nominee shall pass in the event of the nominee predeceasing the subscriber. Shri Crone has a natural infant daughter and it has been stated that the nomination in favour of t the adopted daughter has been made with a view that in the event of Shri and Shrimati Crone predeceasing adopted daughter may maintain and provide the infant daughter out of the Provident Fund amount. The question for consideration is whether the adopted daughter can be considered to be child within the meaning of the term as appearing in rule 2(c) read with Note II thereto.

2 Under the proviso to Rule 7(i) of the Bombay General Provident Fund Rules a nomination of a subscriber having a family shall not be in favour of any person or persons other than the members of his family. The term family as

defined in sub-rule (c of rule 2(i) means in the case of a male subscriber, the wife, or wives and children of a subscriber and the widow or ~~and~~ widows and children of a deceased son of the subscriber. Note I to this sub-rule provides that "children" means legitimate children. Note II provides that an adopted child shall be considered to be a child when the Account Officer or if any doubt ~~arises~~ arises in the mind of the Account Officer, the Solicitor to the Government of Bombay is satisfied that under the personal law of the subscriber adoption is legally recognised as conferring the status of a natural child but in this case Shri Crone is domiciled in Britain. The Adoption of Children Act, 1926(16 and 17 Geo. 5 Ch. 29) would therefore apply to the adoption made by him. Under this Act the Court has power upon an application in the prescribed manner by any person desirous of being authorised to adopt an infant who has never been married to make an order authorising the applicant to adopt the infant. (See section 1(1)) The effect of the Adoption Order is that all rights, duties and obligations and liabilities of the parents or guardians of the child become vested in, exercisable by and enforceable against the adopter as though the adopted child were a child born to the adopter in lawful wedlock.(See section 5(1)). In this case, however, Shri Crone has presumably not obtained any order of a Court in Great Britain and as such the adoption evidenced under the deed dated the 30th March 1950 cannot be construed as a valid adoption although that agreement may for the purposes specified therein place him in loco parentis. This relationship, however, would not confer the status of ~~an~~ a natural child on Netta Irene Lynette, and she would not be included in the family of Shri Crone within the meaning of the term in

rule 2(c). Consequently the nomination in her favour cannot be supported.

Id./P.M.L. 4/2

Remembrancer of Legal Affairs.

U.R. to P.& S.D., No. 1865, dated the 5th February 1952.

SMR 13-6-56

4 Copies.

OFFICE OF THE R.L.A.

Bombay General Provident Fund Rules, 1936.
.....
Rule 30(b).
.....

Whether Khatijabai married the deceased Balucha prior or subsequent to 10th August 1926 i.e. the date of declaration is a question of fact. If the Deputy Custodian's report that Khatijabi married Bulucha only 20 years ago is correct, obviously the marriage was subsequent to the date of declaration, in which case the declaration would be deemed to be invalid and the General Provident Fund will have to be disposed of in accordance with rule 30(b) of the Bombay General Provident Fund Rules.

Id./P.M.L. 17/6

Remembrancer of Legal Affairs.

U.R. to A.& F.D. No. 567-Confl, dated the 18th June '52.

SMR 13-6-56
4 Copies.

Office of the R.L.A.

Bombay General Provident Fund Rules.
Rule 30(1)(b)
.....
R.L.A.'s Opinions
No. 917 confl. dt. 2-11-1951 and 567 Confl. dt. 18-6-1952.

The U.S., A.& F.D. has stated that:-

"Since the nomination made by Shri Baluch has become invalid on account of his second marriage thereafter, the G.P. Fund balance will have to be disposed of to all the sharers in accordance with Rule 30(b) of the G.P.Fund Rules, as advised by the R.L.A. The further point for consideration is whether the sharers, including the present applicant (his widow), will have to establish their relative claims in a court of law, or whether the widow, Shrimati Khatijabai, can be paid one eighth of the G.P.Fund balance, on the strength of an affidavit as suggested by her solicitors, according to the law of inheritance under the Mohomedan law" R.L.A. is requested to advise.

2 Under rule 30(i)(b) of the Bombay General Provident Fund Rules in the absence of any valid nomination the whole amount of accumulations standi -ng to the credit of a deceased subscriber becomes payable to the members of his family in equal shares and the right of a Mohomedan widow to receive 1/8th share under the Mohomedan law cannot be taken into account in apportioning the amount under this porvision. If Government considers it expedie -t to do so and is satisfied that the amount that will be ultimately duly to the share of Khatijabai in accor -dance with this rule would not exceed 1/8th of the whole amount standing to the credit of Shri Baluch, there would be no objection to paying her how that amou on the production of the affidavit mentioned in the letter of Messrs. S.F.B. Tyabji & Co. dated the 20th June 1952 on her executing an indemnity bond.

3 However, as it appears from the papers that the only family members left by Shri Baluch are his widow and a major son and consequently Khatijabai would be alone entitled to the whole amount, it would

be desirable to ask Khatijabai to produce a succession certificate and establish her claim to the whole or part of the fund in a court of law. As pointed out in B.L. A 's opinion No. 917 Confl. dated 2-11-1951, it would, however, be for the Rehabilitation Department to decide whether the payment should be made to her as the amounts appear to have been declared as evacuee property by the Deputy Custodian, Poona.

Id./ P.M.L. 7/7
Remembrancer of Legal Affairs.

U.R. to A.& F.D., No. 655 Confl. dated the 8th July 1952.

SMR 13-6-56
4 Copies.